

Chapter 13

Labor Organization Licensing Regulations (Gaming Enterprise)

Regulation # R400-04:GC-13

Section 1. Purpose; Authority; Definitions

1-1. *Purpose.* The purpose of this regulation is to set forth the licensing requirements for labor organizations engaged in organizing employees working for the gaming enterprise of the Little River Band of Ottawa Indians.

1-2. *Authority.* These regulations are promulgated pursuant to the Article XVI, section 16.07(b) of the Fair Employment Practices Law of the Little River Band of Ottawa Indians.

1-3. *Labor Organization* shall mean any organization working for the purpose of bargaining over hours of employment, rates of pay, working conditions, grievances, or other terms or conditions of employment, which engages in organizing, including solicitation for union membership.

1-4. *Local* shall mean the local affiliate, chapter, or other sub-unit of any labor organization.

1-5. *Designated Individual* shall mean an officer, agent, principal, employee, or individual performing any of the following functions on behalf of a labor organization with respect to employees of any gaming enterprise of the Tribe:

- a. soliciting employees for union membership;
- b. adjusting grievances for or negotiating or administering the wages, hours, working conditions of employees;
- c. soliciting, collecting, or receiving any dues, assessments, levies, fines, contributions, or other charges from employees;
- d. supervising, directing or controlling other officers, agents, or employees of a labor organization in performing the functions listed in subsections a-c.

1-6. *Gaming Commission* shall mean any Tribal Gaming Regulatory Authority or Regulatory agency created by Tribal law.

1-7. *Gaming Enterprise* shall mean any gaming facility of the Little River Band of Ottawa Indians, operating pursuant to the Indian Gaming Regulatory Act, including any related hotel or restaurant services.

1-8. *Indian Gaming Regulatory Act* shall mean 25 U.S.C. §§ 2701-2721.

1-9. *Tribe* shall mean the Little River Band of Ottawa Indians.

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Section 2. License Application Requirements

Every labor organization or its Local shall complete a license application, issued by the Gaming Commission, which shall include the following information:

2-1. The labor organization's name, address, and telephone number.

2-2. The name and address of any international labor organization with which it directly or indirectly maintains an affiliation or relationship.

2-3. All of the following information for any and all Designated Individuals and other personnel of the Local:

- a. The individual's full name and any know alias or nickname;
- b. The individual's business address and telephone number;
- c. The individual's title or other designation in the local labor organization;
- d. A brief description of the individuals duties and activities; and
- e. The individual's compensation, including salary, allowances, reimbursed expenses, and other direct or indirect disbursements.

2-4. All of the following additional information for any and all Designated Individuals:

- a. The individual's home address and telephone number;
- b. The individual's date and place of birth;
- c. The individual's social security number;
- d. The date he/she was hired by or first consulted with or advised the labor organization; and
- e. A detailed description of the following:
 1. The individual's duties and activities.
 2. Whether he/she performed the same or similar activities previously on a labor organization's behalf; and
 3. The individual's prior employment or occupational history;
- f. Excluding minor traffic offenses, a detailed description of the following:
 1. The individual's convictions, including any conviction that was expunged or set aside, sealed by court order, or for which he/she received a pardon; and
 2. Any criminal offense for which he/she was charged or indicted, but not convicted;
- g. Whether he/she was ever denied a business, liquor, gaming, or professional license or had such a license revoked.
- h. Whether a court or governmental agency determined the individual unsuitable to be affiliated with a labor organization and the details of that determination.
- i. Whether the individual was ever subpoenaed as a witness before a grand jury, legislative committee, administrative body, crime commission, or similar agency and the details relating to that subpoena.
- j. A photograph of the individual taken within the previous 60 days.

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k. For the labor organization's first filing, a complete set of the individual's fingerprints to be used in conducting a criminal background investigation in accordance with Section 4-2 below.

l. A written certification under oath by the labor organization president, secretary, treasurer, or chief official that the information provided under this subsection is complete and accurate. The Gaming Commission shall prescribe the form for this certification.

m. An executed "Authorization to Release Information" to allow the Gaming Commission to conduct a background investigation as described in Section 4-2 below.

2-5. If information required under subsection 2-1 thru 2-4 for a designated individual changes after submission of an application or if the labor organization gains or assigns a designated individual after submission of an application, the labor organization shall provide the Gaming Commission with that new information or the information, photograph, and fingerprints required for the new designated individual within 21 days.

Section 3. Disqualifications

3-1. Upon finding, on a preponderance of the evidence, that grounds for disqualification under subsection 3-2 exist, the Gaming Commission may disqualify any officer, agent, or principal employee of a labor organization from performing any of the following:

- a. Soliciting employees for union membership;
- b. Adjusting grievances for or negotiating or administering the wage, hours, working conditions of casino gaming employees;
- c. Soliciting, collecting, or receiving from casino gaming employees any dues, assessments, levies, fines, contributions, or other charges within this state for or on behalf of the labor organization; and
- d. Supervising, directing, or controlling other officers, agents, or employees of the labor organization in performing functions described in subsection a-c.

3-2. An individual may be disqualified from serving as a Designated Individual if any of the following apply:

- a. He/she has been convicted of or entered a plea of guilty or no contest to a gambling-related offense, fraud or misrepresentation; or
- b. He/she has been convicted of or entered a plea of guilty or no contest to any offense not specified in paragraph (a) within the immediately preceding five years; this provision shall not apply if that person has been pardoned by the Governor of the State where the conviction occurred.
- c. He/she has knowingly and willfully provided materially false and misleading statements or information to the regulatory agency or refused to respond to questions asked by the regulatory agency.
- d. He/she has been determined by the regulatory agency to have participated in organized crime or unlawful gambling or whose prior activities, criminal records, reputation, habits, and/or associations pose a threat to the public interest or to the

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effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming.
e. He/she is on parole following release from incarceration and has not yet successfully completed one full year (365 days) of parole.

3-3. Each officer, agent, or principal employee shall report all information described in subsection 3-2 concerning him/her to the Gaming Commission.

3-4. The Gaming Commission shall give written notice to the labor organization of individuals who are disqualified, stating the grounds for the disqualification and describing any supporting evidence in the Gaming Commission's possession. Within 14 days after receiving the written notice of disqualification, the labor organization may file with the Gaming Commission a written request for a hearing, which shall take place promptly. The Gaming Commission shall conduct the hearing in conformity with its regulation and procedures. A labor organization aggrieved by a final disqualification has the right to appeal to the Tribal Court.

3-5. Not later than January 31 of each calendar year a labor organization shall provide the Gaming Commission with a sworn statement that no disqualified individual served as a Designated Individual or performed any functions described in subsection 1-5 and/or 3-1 of these Regulations.

Section 4. Investigations

4-1. The Gaming Commission shall have authority to investigate any labor organization, local, or any Designated Individual, or any other agent, officer, or representative of any labor organization or local for the purpose of confirming the moral character and suitability of the organization or individual.

4-2. The Gaming Commission's authority to investigate under this Section shall include interviewing individuals in person or by telephone and conducting a criminal background investigation sufficient to make a determination under Section 4-1.

a. The criminal background investigation of each Designated Individual applying for a Labor Organization License shall be conducted. The Gaming Commission shall submit impressions of the applicant's fingerprints, taken under Section 2-4 (k), to the Federal Bureau of Investigation Criminal Information Center or and any other law enforcement agency(ies) that the Gaming Commission deems appropriate in requesting a criminal history report.

b. If the criminal history provided by applicant, or obtained in initial phase of the background investigation identify incidents which may disqualify the applicant as a result of his habits, reputation or associations, the Gaming Commission shall endeavor to obtain copies of police reports, court records or other information to determine specific details relative to such criminal offenses or charges.

c. The Gaming Commission may contract with private, municipal, state, and/or

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federal investigation agencies to perform the required background and/or criminal history investigations.

d. All information received/obtained by the Gaming Commission during the course of any criminal background investigation shall remain confidential and shall not be disclosed unless authorized by law or in writing.

4-3. Refusal of any Designated Individual or any other agent, officer, or representative of any labor organization or local to cooperate in any investigation of the Gaming Commission may constitute grounds for disqualification under Section 3.

Section 5. Application Fee

5-1. Every application for a license under this Chapter shall be accompanied by a non-refundable license fee in the amount of Five Hundred Dollars (\$500.00).

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